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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,447	01/22/2002	James R. Keogh	P-9170.00	5485

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

EXAMINER

ROSENTHAL, CASEY S

ART UNIT PAPER NUMBER

1615

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,447

Applicant(s)

KEOGH ET AL.

Examiner

Casey Rosenthal

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 52-61, 103-114, 162-173 and 235-272 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-10, 52-61, 103-114, 162-173 and 235-272 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of applicant's Amendment after Non-Final/Response to Restriction filed 10/12/2004.

Election/Restrictions

2. In view of newly presented claims 237-272, an election of species is further required for the reason that the species claimed are patentably distinct.
3. This application contains claims directed to the following patentably distinct species of the claimed invention:
 - a. Type of medical device chosen from the following:
 - i. A blood-contacting medical device, an extracorporeal medical device, a blood oxygenator, a blood pump, a blood sensor, tubing for carrying blood
 - ii. A tissue-contacting medical device
 - iii. A bodily fluid-contacting medical device
 - iv. An implantable medical device
 - v. Endoprosthesis medical device, a vascular graft, a stent, a pacemaker lead, a heart valve
 - vi. Temporary intravascular medical device, a catheter, a guide wire
 - b. Type of surface component chosen from the following:
 - i. A metal, titanium, titanium alloy
 - ii. Tin-nickel alloy

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- iii. A shape memory alloy
- iv. Aluminum oxide
- v. Platinum, a platinum alloy
- vi. Stainless steel, MP35N stainless steel
- vii. A elgiloy
- viii. A satellite
- ix. A prolytic carbon
- x. A silver carbon, a compressed carbon
- xi. A glassy carbon
- xii. A polymer, a polyamide, a polycarbonate, a polyether, a polyester, a polyolefin, a polyethylene, a polypropylene, a polystyrene, a polyurethane, a polyvinylchloride, a polyvinylpyrrolidone, a silicone elastomer, a fluoropolymer, a polyacrylate, a polyisoprene, a polytetrafluoroethylene, a rubber, a ceramic, a hydroxyapatite
- xiii. A human protein, an animal tissue
- xiv. A bone
- xv. A skin
- xvi. A tooth
- xvii. A collagen
- xviii. A laminin
- xix. An elastin
- xx. A fibrin

- xxi. A wood
- xxii. A cellulose
- xxiii. A glass
- c. Type of hydrophilic polymer chosen from the following:
 - i. Water-soluble polymer
 - ii. Water-swelling polymer
 - iii. A polymer comprising a hydrophilic chemical moiety
 - iv. A polymer used to reduce friction on a surface
 - v. An acrylamide, a methacrylamide polymer, a 2-acrylamido-2-methylpropane sulfonic acid polymer, an acrylic acid polymer, a N-(3-aminopropyl) methacrylamide hydrochloride polymer
 - vi. A polyvinylpyrrolidone
 - vii. A polyethylene oxide polymer
 - viii. A saccharide, a glycan, a hyaluronic acid polymer, a chondroitin sulfate polymer, a chitin polymer, an agarose polymer, a cellulosic polymer, a polysaccharide
 - ix. A poly(alkylene oxalate) polymer
 - x. Poly(vinyl alcohol) polymer
 - xi. An ionene polymer
 - xii. A caprolactone copolymer
 - xiii. a poly(maleic anhydride) polymer
- d. Type of biomolecular form chosen from the following:

- i. A hydroxyl moiety
 - ii. A phosphate moiety
 - iii. A sulfate moiety
 - iv. A carboxylate moiety
 - v. An amide moiety
 - vi. A guanidino moiety
 - vii. An amine moiety
- e. Function of biomolecule chosen from the following:
- i. An anticoagulant agent, an antithrombotic agent, a clotting agent, a platelet agent, a blood agent
 - ii. An anti-inflammatory
 - iii. An antibody
 - iv. An antigen
 - v. An immunoglobulin
 - vi. A defense agent
 - vii. An enzyme
 - viii. A hormone
 - ix. A growth factor
 - x. A neurotransmitter
 - xi. A cytokine
 - xii. A regulatory agent
 - xiii. A transport agent

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- xiv. A fibrous agent
- xv. A viral agent
- xvi. A protein, a glycoprotein, a globular protein, a structural protein, a membrane protein, a cell attachment protein, a viral protein
- xvii. A peptide, a glycopeptide, a structural peptide
- xviii. A membrane peptide, a cell attachment peptide
- xix. A proteoglycan
- xx. A toxin
- xxi. An antibiotic agent, antibacterial agent, antimicrobial agent
- xxii. A polysaccharide, a carbohydrate
- xxiii. A fatty acid
- xxiv. A catalyst
- xxv. A drug
- xxvi. A vitamin
- xxvii. A DNA segment
- xxviii. A RNA segment
- xxix. A nucleic acid
- xxx. A lectin
- xxxi. A dye
- xxxii. A ligand

4. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

finally held to be allowable. **Currently, claims and 1, 52, 103, 162, 235 and 236 are generic.**

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Due to the complexity of the action, examiner submitted the Election in writing in lieu of calling applicant's attorney.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Casey Rosenthal whose telephone number is 571-272-6097. The examiner can normally be reached on M-F from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

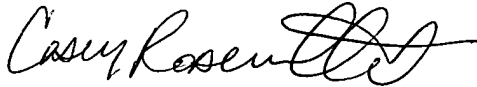
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).



Casey Rosenthal
Examiner
Art Unit 1615



THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600